

Chapter 8 – Conflict of Interest Prohibition

Conflicts Prohibited

No persons who exercise or have exercised any functions or responsibilities with respect to HOME or CDBG activities or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

Procurement Conflicts

Your standards must require that no employee, officer, agent of the recipient or administering agency may participate in the selection or administration of a contract supported by HOME if the conflict of interest real or apparent, would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for award:

- Employee, agency or officer of the recipient or administering agency;
- Any member of an employee's, agent's or officer's immediate family;
- An employee's, agent's or officer's partner; or
- An organization that employs or is about to employ any of the above.

Persons Covered

The conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving HOME or CDBG funds.

Conflict Examples:

<i>Organization</i>	<i>Description</i>	<i>Conflict</i>
Local Unit of Government	The town council president's sister wants to participate in an owner-occupied rehabilitation project that is being undertaken by the town using CDBG funding.	The town council president would need to follow the CDBG procedures for conflict of interest
Local Unit of Government	The town council president's brother was to bid on the inspector services to be provided under a HOME award.	The town council president would not be able to participate in the procurement of the contract in which his brother plans to bid. However, the selection of the inspection firm must be made in accordance with the local unit of government's procurement standards.
Not-for-profit – not acting as a owner, sponsor or developer	A board member of the organization intends to bid on work that the organization is undertaking using HOME funding.	The board member would need to follow the HOME procedure for conflict of interest

Procedures for CDBG Conflict of Interest

The Local Unit of Government, the award recipient for CDBG funds, will need to submit the conflict in writing to their IHFA Compliance Monitor. The letter should contain the following information:

1. A request for an exception to the conflict of interest prohibition
2. A copy of the minutes from a public meeting denoting that the affected person has publicly disclosed the conflict of interest and has stated that he/she has withdrawn from functions or responsibilities with respect to the assisted activity in question.
3. An opinion from the Local Unit of Government's attorney that the interest for which an exception is sought would not violate state or local law.

IHFA will approve an exception to this conflict of interest prohibition only after it has been determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the CDBG Program. The Local Unit of Government will receive a response in writing from IHFA stating whether or not an exception has been allowed.

If an exception is allowed, a completed Uniform Conflict of Interest Disclosure Statement must be sent to the following within 15 days:

1. Indiana Housing Finance Authority
2. State Board of Accounts
3. Clerk of the Circuit Court of the county in which the contract was executed.

Procedures for HOME Conflict of Interest

The award recipient for the HOME funds will need to submit the conflict in writing to their IHFA Compliance Monitor. The letter should contain the following information:

1. A request for an exception to the conflict of interest prohibition
2. A copy of the minutes from a public meeting denoting that the affected person has publicly disclosed the conflict of interest and has stated that he/she has withdrawn from functions or responsibilities with respect to the assisted activity in question.
3. An opinion from the recipient's attorney that the interest for which an exception is sought would not violate state or local law.

IHFA will forward the conflict of interest to the U.S. Department of Housing and Urban Development (HUD) to determine if an exception to the conflict is allowed. IHFA will notify the award recipient in writing whether an exception has been allowed or denied by HUD.

If an exception is allowed, a completed Uniform Conflict of Interest Disclosure Statement must be sent to the following within 15 days:

1. Indiana Housing Finance Authority
2. State Board of Accounts
3. Clerk of the Circuit Court of the county in which the contract was executed.

Factors to Consider When Granting an Exception

- Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program which would otherwise not be available;
- Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interest or benefits as are being made available or provided to the group or class;
- Whether the affected person has withdrawn from his or her function or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

- Whether the interest or benefit was present before the affected person was in a position constituting the conflict of interest;
- Whether undue hardship will result either to the Participating Jurisdiction or the person affected when weighted against the public interest served by avoiding the prohibited conflict; and
- Any other relevant consideration.

Exclusions to Conflict of Interest

There are select situations where the process for notification of a conflict of interest with a project **is not** applicable:

- Any CHDO or not for profit organization acting as a owner, sponsor or developer of a project

For more information on Conflict of Interest provisions under the HOME rule, please refer to the HUD CPD 98-09 Notice issued July 14, 1998.

Occupancy of HOME-assisted Units

Persons Covered

Owner, sponsor or developer of a HOME-assisted project or an officer, employee, agent or elected or appointed official or consultant of the owner, developer or sponsor whether private, for profit or not-for-profit (including CHDO when acting as an owner, sponsor or developer).

Prohibited Conflicts

No person may occupy a HOME-assisted unit. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

Scenario

A CHDO develops a 6-unit rental development with HOME funds that it will own and manage. Can the employees of the CHDO rent units in this building? No. Employees of the CHDO are covered persons under 24 CFR 92.356(f) of the regulations and, thus, are prohibited from occupying a HOME-assisted housing unit in the development owned by the CHDO. Further these units must be affirmatively marketed. However, on a case-by-case basis, the Participating Jurisdiction could consider granting an exception to the prohibition as permitted by the HOME regulations.